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# Public Notice

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**US ARMY CORPS  
OF ENGINEERS**  
St. Louis District  
Gateway to Excellence

**Reply To:**  
U.S. Army Corps of Engineers  
Attn: Regulatory Branch  
1222 Spruce Street  
St. Louis, Missouri 63103-2833

Public Notice No.

**P-2644**

Public Notice Date

**August 14, 2007**

Expiration Date

**September 4, 2007**

**Postmaster Please Post Conspicuously Until:**

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File Number: 2007-426

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States, as described below and shown on the attached maps.

**COMMENTS AND ADDITIONAL INFORMATION:** All comments and/or requests for public hearing must reach this office no later than the expiration date of the Public Notice to become part of the record and be considered in the decision. Comments should be mailed to the following address:

U.S. Army Corps of Engineers  
Regulatory Branch  
1222 Spruce Street  
St. Louis, Missouri 63103-2833  
ATTN: Mr. Shawn Sullivan

**APPLICANT:** Mr. James Dierberg, Investors of America LP, 39 Glen Eagles, St. Louis, Missouri 63124.

**AGENT:** Lewis-Bade, Inc. Attn: Mr. Robert Heagler, 2007 Sylvan Hills Ct., Jefferson City, Missouri 65109. (573) 645-0950.

**LOCATION:** The project area is located southeast of Femme Osage Ridge Road on private property known as Dierberg Farm. More specifically, the site lies within the Western ½ of Section 23, Township 45 North, Range 01 East in St. Charles County, Missouri (see attached location map).

**PROJECT DESCRIPTION:** The applicant seeks authorization to construct an approximate 18-acre recreational lake on an unnamed tributary to Femme Osage Creek, which flows to the Missouri River. The proposed project includes construction of an earthen dam that is approximately 50-foot high, 1,200 feet long, and contains a foundation embankment of up to 370 feet wide. Both principal and emergency spillways are proposed as part of the engineering plans. The applicant has retained the services of a professional engineer registered in Missouri to prepare a construction permit application for the construction of the dam in accordance with the provisions of Chapter 236.400 to 236.500 of the Revised Statutes of Missouri and the Rules and regulations of the Missouri Dam and Reservoir Safety Council. The unnamed tributary that would be impacted is an intermittent tributary, and was

determined as such through field inspections by the applicant's agent and the U.S. Army Corps of Engineers, Regulatory Staff. The tributary receives hydrology from two sources which include both groundwater and runoff following precipitation events. However, the stream is usually dry during summer months with the exception of some very small pools found sporadically in the channel reach to be impounded. The tributary does not contain a sustainable fish population but does provide habitat for some aquatic macro-invertebrates. The proposed construction of the dam and associated inundation of the intermittent tributary would impact 1,510 linear feet of the tributary channel. The principal spillway will maintain flows below the dam by overflowing back into the tributary when the lake is higher than one foot below full pool. In addition, flows from the principal spillway should provide an occasional bank full flushing of the creek below the dam. Compensatory mitigation alternatives are being explored on an intermittent pooled tributary located on the Dierberg Farm. Compensatory mitigation options discussed at this time include removal of existing concrete low water crossings and replacement with a bridge structure, enhancing the riparian corridor with tree plantings, and permanently protecting the mitigation area with a deed restriction.

**LOCATION MAPS AND DRAWINGS:** See attached maps.

**ADDITIONAL INFORMATION:** Additional information may be obtained by contacting Shawn Sullivan, Project Manager, U.S. Army Corps of Engineers, at (314) 331-8580. Your inquiries may also be sent by electronic facsimile to (314) 331-8741 or by e-mail to Shawn.F.Sullivan@mvs02.usace.army.mil.

**AUTHORITY:** This permit will be issued or denied under the following: Section 404 of the Clean Water Act (33 U.S.C. 1344).

**WATER QUALITY CERTIFICATION:** The project plans have been submitted to the Missouri Department of Natural Resources, Water Protection Program for state certification of the proposed work in accordance with Section 401 of the Clean Water Act. The certification is requested as of the date of this Public Notice, and if issued, will express the Agency's opinion that the proposed activities will not violate applicable water quality standards. Written comments concerning possible impacts to waters of Missouri should be addressed to: Water Protection Program, Post Office Box 176, Jefferson City, Missouri 65102-0176, with a copy provided to the Corps of Engineers.

**SECTION 404 (b)(1) EVALUATION:** The impact of the activity on the public interest will be evaluated in accordance with the Environmental Protection Agency guidelines pursuant to Section 404 (b)(1) of the Clean Water Act.

**PUBLIC HEARING:** Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the applicant's proposal. Any request for a public hearing shall state, with particularity, the reason for the hearing, and must be based on issues that would warrant additional public review.

**ENDANGERED SPECIES:** A preliminary determination, in compliance with the Endangered Species Act, as amended, has been made that the work that is proposed would not affect species designated as threatened or endangered, or adversely affect critical habitat. Therefore, no formal consultation request has been made to the United States Department of Interior, Fish and Wildlife Service. In order to complete our evaluation, comments are solicited from the Fish and Wildlife Service and other interested agencies and individuals through this Public Notice.

**CULTURAL RESOURCES:** The applicant has submitted information to the State Historic Preservation Officer (SHPO) pursuant to Section 106 of the National Historic Preservation Act. A

Phase I Cultural Resource Survey was conducted for the project area and the SHPO has reviewed the report and concurs with the investigator's recommendation that there will be no historic properties affected. By letter correspondence dated July 16, 2007, the SHPO expressed no objection to the initiation of project activities.

**EVALUATION OF PROBABLE IMPACTS:** The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that may reasonably be expected to accrue from the described activity must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the activity described, will be considered including the cumulative effects. Among factors considered are: conservation; economics; aesthetics; general environmental concerns; wetlands; historic properties; fish and wildlife values; flood hazards; flood plain values; land use; navigation; shoreline erosion and accretion; recreation; water supply and conservation; water quality; energy needs; safety; food and fiber production; mineral needs; consideration of property ownership; and in general the needs and welfare of the people.

**Solicitation of Comments From The Public:** The U.S. Army Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of the proposed activity. Any comments received will be considered by the U.S. Army Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

  
DANNY D. MCCLENDON  
Chief, Regulatory Branch

Attachments

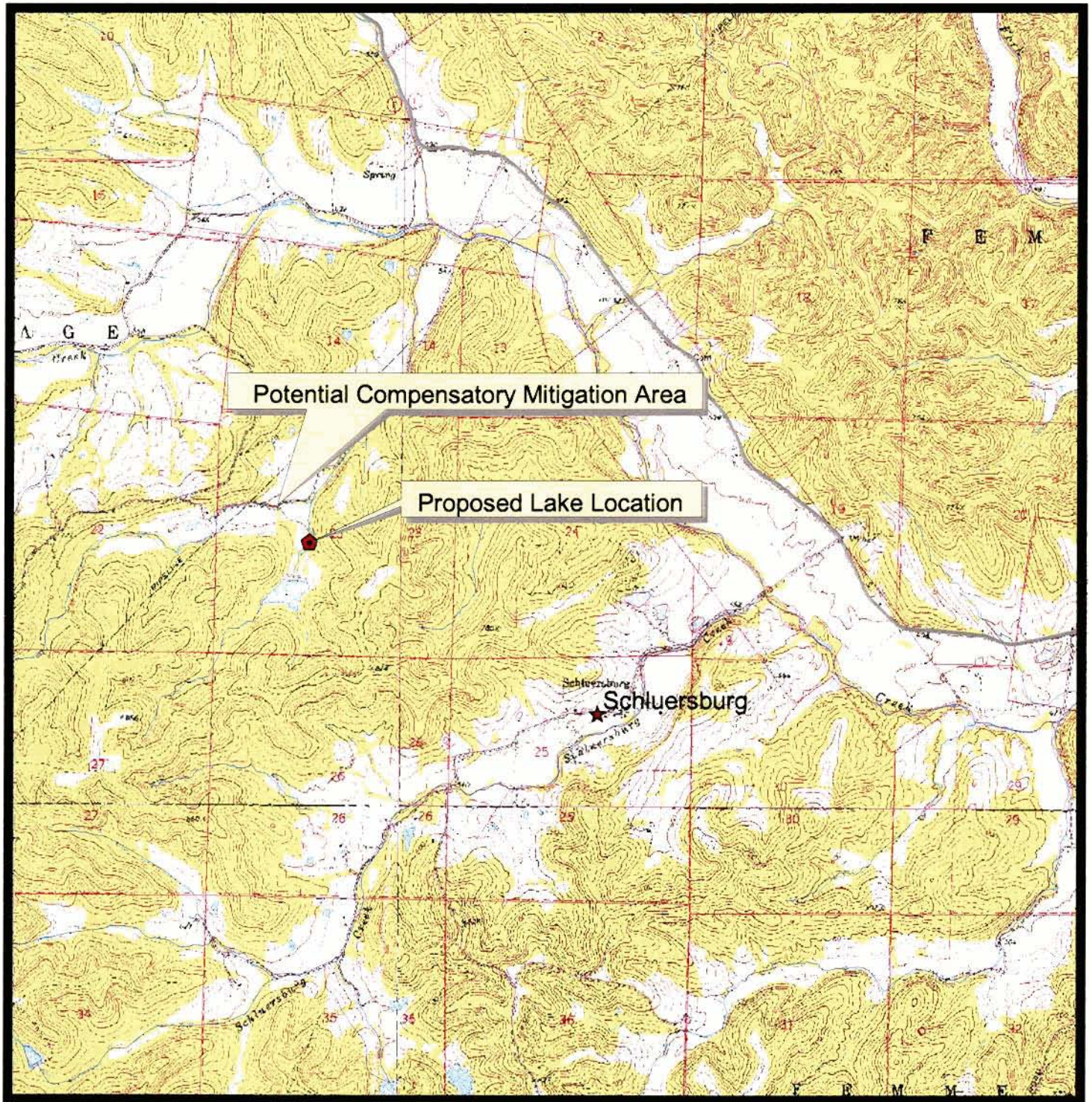
**NOTICE TO POSTMASTERS:**

It is requested that this notice be conspicuously and continually placed for 21 days from the date of this issuance of this notice.



# Dierberg Dam

## 2007-426



0 1 Miles



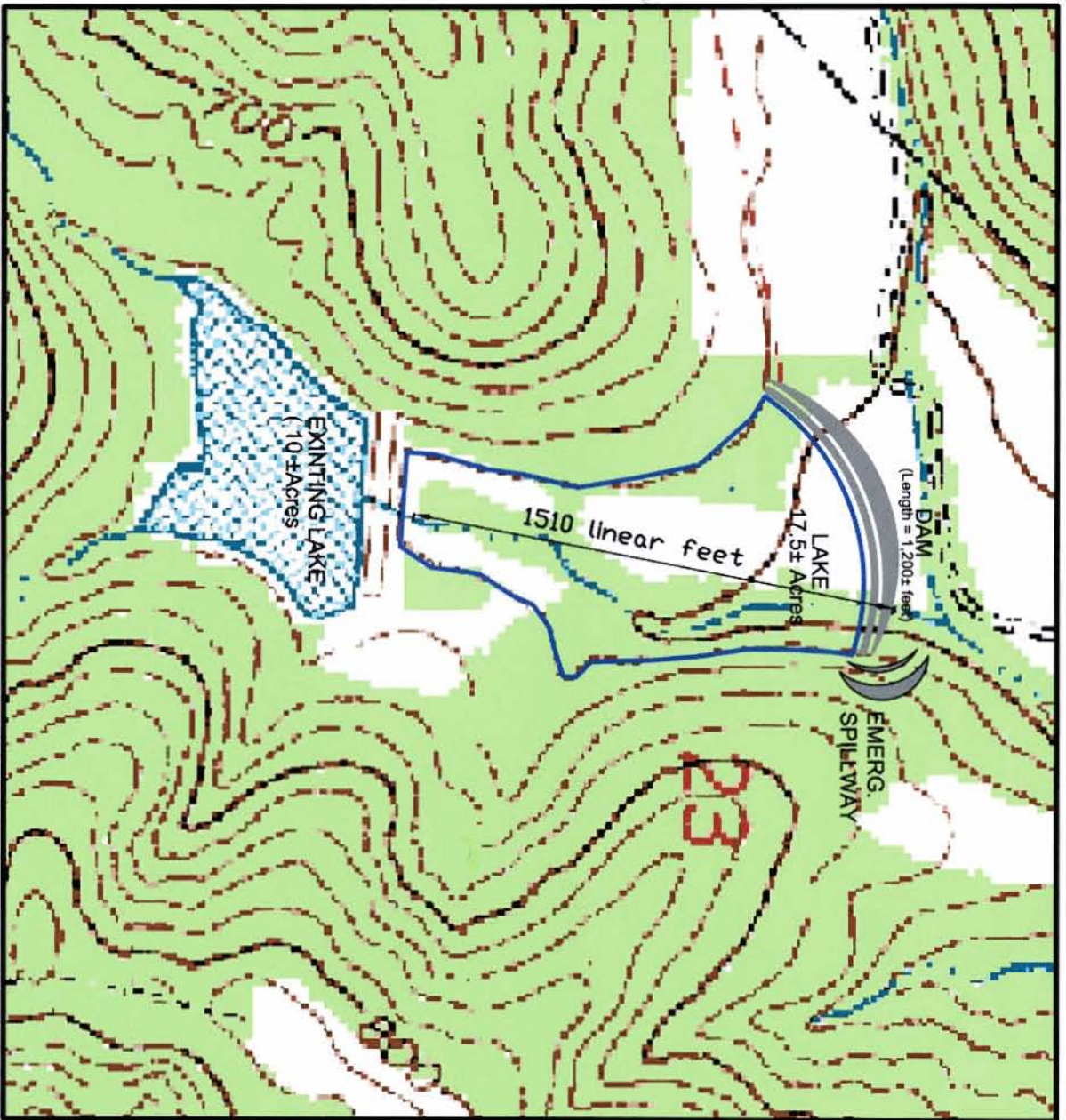
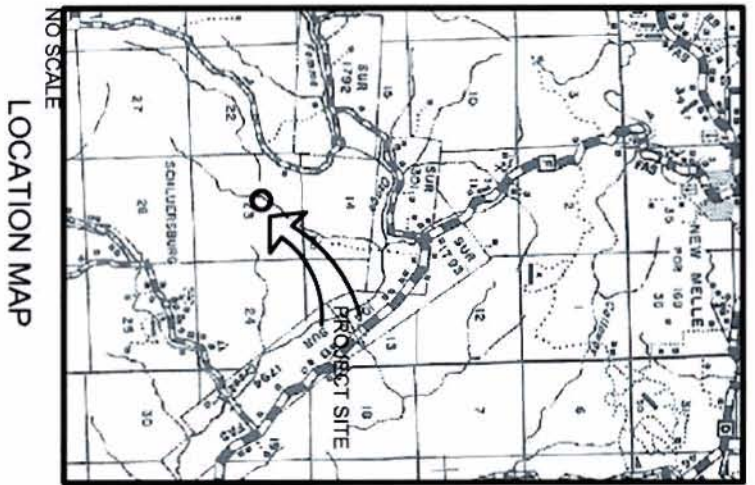
Sheet 1 of 4  
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State: Missouri  
County: St Charles  
Nearest City: Schlusburg  
Latitude: 38:38:27.4630  
(38.64096194)  
Longitude: -90:52:56.2241  
(-90.88228446)  
UTM X: 0684313.861

UTM Y: 4278855.323  
UTM Zone: 15  
USGS Quad: New Melle  
HUC 8 Name: Lower Missouri  
HUC 8 Number: 10300200  
Section: 23  
Township: 45 N  
Range: 1 E  
Q Section:



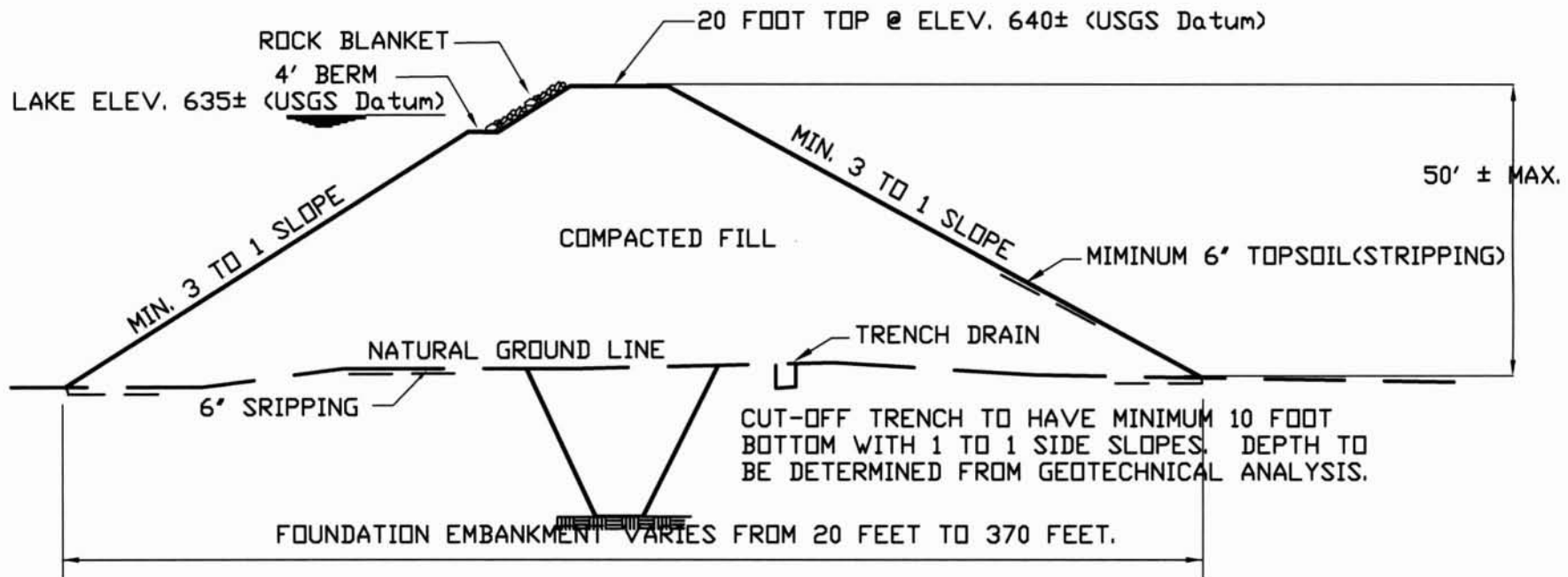


PROJECT # 07003

LEWIS-BADE - ENGINEERING (Jefferson City Office) - 2007 Sylvan Hills Ct. - Jefferson City, MO 65109

FIGURE #1

NOTE: A GEOTECHNICAL ANALYSIS WILL ESTABLISH THE REQUIRED EMBANKMENT SLOPES THAT HAVE A FACTOR OF SAFETY REQUIRED BY DAM AND RESERVOIR SAFETY COUNCIL OF THE DNR FOR THIS SITE.

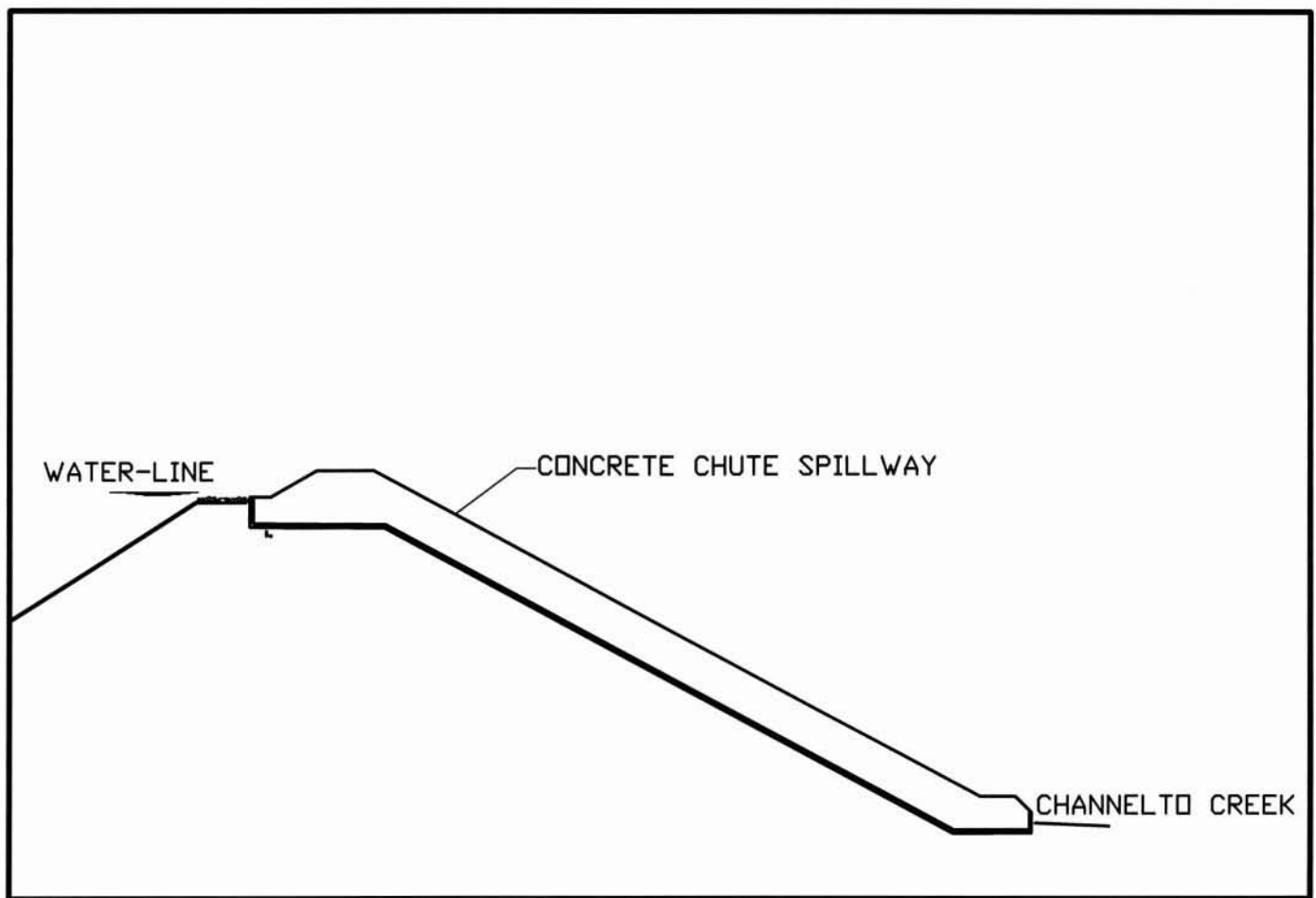


NO SCALE

TYPICAL SECTION DAM  
DIERBERG DAM  
St. Charles County

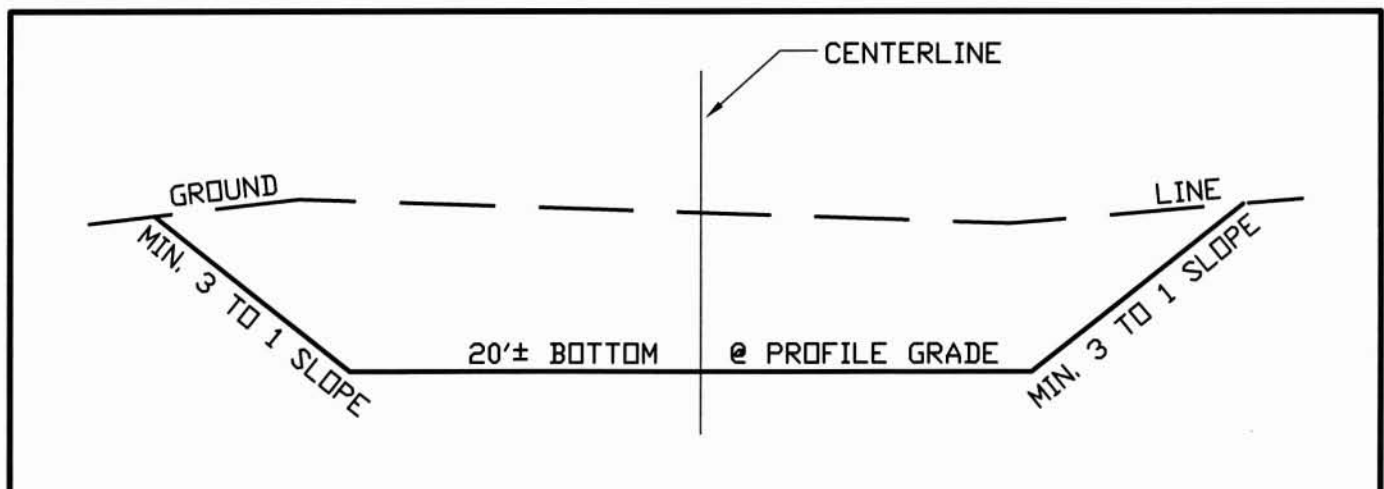
PROJECT # 07003J

FIGURE #2



NO SCALE

SECTION PRINCIPAL SPILLWAY



NO SCALE

SECTION EMERGENCY SPILLWAY CHANNEL

DIERBERG DAM  
St. Charles County

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PROJECT # 07003J

FIGURE #3